

**BOARD OF ASSESSMENT APPEALS,
STATE OF COLORADO**
1313 Sherman Street, Room 315
Denver, Colorado 80203

Docket No.: 65144

Petitioner:

KATHRYN R. AND LESLIE A. CHOUINARD,

v.

Respondent:

LAKE COUNTY BOARD OF COMMISSIONERS.

ORDER

THIS MATTER was heard by the Board of Assessment Appeals on February 19, 2015, Diane M. DeVries and MaryKay Kelley presiding. Kathryn R. Chouinard appeared *pro se* on behalf of Petitioners. Respondent was represented by Lindsey Parlin, Esq. Petitioners are protesting the 2012 and 2013 classification and actual values of the subject property.

Subject property is described as follows:

**2015 County Road 11, Leadville, Colorado
Lake County Schedule No. 15202001-R**

The subject property is a 36.01 acre horse property accessed by Colorado Highway 24. Improvements include a residential structure and a stable/hay shed.

Respondent classified the subject property as vacant land and assigned a value of \$147,641 for the land and \$3,408 for the residential structure for a total of \$151,049. Petitioners are requesting residential classification. There is no dispute over the assigned value of vacant land classification.

Ms. Kathryn Chouinard presented a current MLS listing of the property, which is fenced pastureland with Half Moon Creek frontage. The residential improvement, originally a barrack at the historic Tenth Mountain Division Camp Hale site, has living and dining rooms, kitchen, two bedrooms, laundry room, and bathroom. A well has been dug but not yet plumbed to the house. Electricity is on site but not yet been hooked up. A septic system has been engineered but not installed.

In order to obtain residential classification, Petitioners secured a permit (2008) and installed the house on a foundation. Subsequently, residential classification was assigned for tax years 2008 and 2009 but reverted to vacant land classification for tax year 2010 because no further work was done. Petitioners cannot afford the higher 2012 and 2013 taxes, cannot afford to complete the residence, and have listed the property for sale. Because Petitioners consider the existing improvement to be a permanent structure, they are arguing that it meets the standard of residential classification.

Respondent's witness, Miguel Martinez, Lake County Assessor, testified that residential classification was granted in 2008 because a permit was issued for construction of a residential improvement. However, nothing further was done after the house was moved to the subject parcel. Intent to meet residential classification criteria was not evidenced. Mr. Martinez considered the residence uninhabitable and, therefore, a minor structure.

Petitioners presented insufficient probative evidence and testimony to prove that the subject property was incorrectly classified and valued for tax years 2012 and 2013.

The Assessor is bound by the Assessor's Reference Library, which instructs the assessment of the properties with partially constructed residential improvements in accordance with degree of completion of those residential improvements. Petitioners secured a building permit in 2008, dug a foundation, and moved the improvement to the site, thus satisfying the requirements for residential classification for tax years 2008 and 2009. Since that time, no attempt has been made to continue construction or make the residence habitable. According to the Assessor, the structure has no electricity, no water, no sewer, and the overall condition of the building is poor; the structure only has a permit for a foundation, is not permanent, and has no appreciable value.

The Board agrees with Respondent that the residential improvement is a minor structure. Section 39-1-103(14)(c)(I), C.R.S. defines vacant land as "any lot, parcel, site, or tract of land upon which no buildings or fixtures, other than minor structures, are located". Minor structures are defined as "improvements that do not add value to the land on which they are located and that are not suitable to be used for and are not actually used for any commercial, residential, or agricultural purpose". Section 39-1-103 (14)(c)(II)(A), C.R.S. The Board is persuaded that the residential improvement is uninhabitable and that Petitioners failed to provide intent to meet statutory requirements to complete construction.

ORDER:

The petition is denied.

APPEAL:

If the decision of the Board is against Petitioner, Petitioner may petition the Court of Appeals for judicial review according to the Colorado appellate rules and the provisions of Section 24-4-

106(11), C.R.S. (commenced by the filing of a notice of appeal with the Court of Appeals within forty-nine days after the date of the service of the final order entered).

If the decision of the Board is against Respondent, Respondent, upon the recommendation of the Board that it either is a matter of statewide concern or has resulted in a significant decrease in the total valuation for assessment of the county wherein the property is located, may petition the Court of Appeals for judicial review according to the Colorado appellate rules and the provision of Section 24-4-106(11), C.R.S. (commenced by the filing of a notice of appeal with the Court of Appeals within forty-nine days after the date of the service of the final order entered).

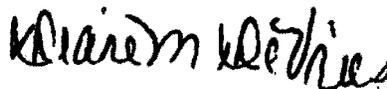
In addition, if the decision of the Board is against Respondent, Respondent may petition the Court of Appeals for judicial review of alleged procedural errors or errors of law when Respondent alleges procedural errors or errors of law by the Board.

If the Board does not recommend its decision to be a matter of statewide concern or to have resulted in a significant decrease in the total valuation for assessment of the county in which the property is located, Respondent may petition the Court of Appeals for judicial review of such questions.

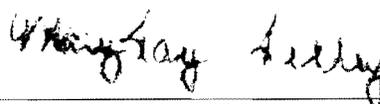
Section 39-10-114.5(2), C.R.S.

DATED and MAILED this 2nd day of March, 2015.

BOARD OF ASSESSMENT APPEALS



Diane M. DeVries



MaryKay Kelley

I hereby certify that this is a true and correct copy of the decision of the Board of Assessment Appeals.



Milla Lishchuk